



# MONTHLY HIGHLIGHTS

**NOAA  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
HABITAT CONSERVATION DIVISION**

**MAY 2000**

**GLOUCESTER, MA OFFICE, ONE BLACKBURN DRIVE, GLOUCESTER, MA 01930**

## **ESSENTIAL FISH HABITAT (EFH) WORKSHOP**

NMFS Regional EFH Coordinators and staff from the Headquarters Office of Habitat Conservation attended a workshop in Seattle from May 16-18, 2000. The purpose of the workshop was to determine whether or not revisions to the EFH interim final rule are necessary based upon public comments and NMFS' experiences implementing it. The most recent public comments on the rule were requested and received in November and December of 1999. Workshop topics included: the information levels (level 1-4) for EFH designations; minimization of fishing gear impacts to EFH to the extent practicable; five year EFH review cycle and EFH mapping requirements; General Concurrences and programmatic consultations; requirements for EFH Assessments; criteria for designating Habitat Areas of Particular Concern (HAPC); processes for dispute resolution over action agency responses to NMFS' EFH conservation recommendations; coordination with fishery management councils on EFH consultations. NMFS is anticipating the final rule to be published in the fall of 2000. The final rule will contain a response to public comments. (Lou Chiarella, 978/281-9277; [Lou.Chiarella@noaa.gov](mailto:Lou.Chiarella@noaa.gov))

**JAMES J. HOWARD MARINE SCIENCES LABORATORY, HIGHLANDS, NJ 07732**

## **HACKENSACK MEADOWLANDS SPECIAL AREA MANAGEMENT PLAN (SAMP)**

Progress on the SAMP Environmental Impact Statement (EIS) continues at a snail's pace due to the many complex issues surrounding the SAMP, and to the large amount of information that must be reviewed and compiled to develop the final document. Agency representatives continue to review draft chapters for the final EIS and to work on the remaining outstanding issues. Discussions concerning essential fish habitat are ongoing. HCD has sent a response to EPA clarifying our December 1999 letter, reiterating our conclusion that some components of the SAMP may adversely affect EFH. However, we recognize that the mitigation and Environmental Improvement Program may have benefits to fisheries resources, and that most of the direct impacts will occur in non-tidal areas. We have provided the EPA with several conservation recommendations to address some of the EFH concerns, including requiring individual EFH assessment as needed for projects within the SAMP and biological monitoring. (Karen Greene,

732/872-3023 or Stan Gorski, 732/872-3037)

### **MEADOWLANDS INTERAGENCY MITIGATION ADVISORY COMMITTEE (MIMAC)**

Once again, the MIMAC discussed the proposed mitigation for the Empire Ltd./Meadowlands Mill project in Carlstadt. The group continues to be concerned about the large freshwater wetlands mitigation area. According to the applicant's consultants, who gave a presentation at the meeting, this area is needed for flood storage from rain events. The MIMAC does not feel that this should be considered as mitigation for wetlands fill on the site. While the presentation did clear up some issues, many others remain. ENCAP Golf, Inc. also made a presentation to the MIMAC. Along with the HMDC, ENCAP proposes to close three orphan landfills (Avon, Lyndhurst, and Rutherford) using clay dredged from the harbor deepening, and to construct a golf course on the site. We discussed the project, its impacts, and mitigation needs. The mitigation has not yet been finalized, so ENCAP will be coming to next month's meeting with more details. A site visit will also be arranged. **(Karen Greene, 732/872-3023)**

### **NEW JERSEY SHELLFISH POLICY**

The State of New Jersey is once again proposing to weaken its shellfish policies. Last year the so-called "in-fill" rule was proposed. It was adopted this year despite our opposition, along with the opposition of several environmental and fishing organizations. This rule allows docks to be built in commercially and recreationally harvestable shellfish beds if other docks are within three hundred feet. This year's proposal further weakens the shellfish policy by allowing docks in all shellfish beds even if there are no nearby docks. Although several conditions must be met to qualify for this exception to the "in-fill" rule, the conditions are of limited value and the proposed rule disregards scientific information of the effects of boating related chemicals on shellfish. A study completed by Rutgers University was used to justify the proposed rule change. However, a review of the study by Northeast Fisheries Science Center found that study contained many weaknesses, some acknowledged in the study by its authors, that do not support the State's position. In fact, the study indicated a widespread metal and PAH contamination problem in the study area. HCD sent a letter to the State opposing this rule change. In addition, as the federal action agency which oversees New Jersey's Coastal Zone Management Plan, the National Ocean Service (NOS) will need to complete an EFH assessment once the proposed changes are submitted to them for approval. Coordination with NOS on this issue is on-going. **(Karen Greene, 732/872-3023)**

### **NEWARK BAY BENEFICIAL USE PROJECT**

A wildlife refuge in Newark Bay? HCD and Northeast Science Center staff met with other state and federal agencies and BASF, Inc. this month to discuss the "beneficial" use of dredged material to create a mix of aquatic and upland habitats from a shallow water area off Kearny Point in Newark Bay. BASF, which owns the adjacent property, has a now defunct plant that may be used by Biogenesis, Inc. as a dredged material decontamination facility. They would like to create a "wildlife refuge" in the offshore area using clay dredged from the harbor deepening. They claim this area is highly contaminated and needs to be capped. Also, the town of Kearny would like a nature center and "wildlife refuge" for their students. BASF claims there are no areas for the residents of Kearny to use for wildlife education. However, the State's Sawmill

Creek Wildlife Management area and the HMDC's education center are both nearby. Following BASF's presentation, BASF was informed by both NJ Bureau of Marine Fisheries and HCD staff that our agencies consider shallow water habitat very important for fishery resources and that their proposal would have an adverse impact on fish. There was insufficient information available to evaluate the contaminants issue. However, it was made clear that at this point we did not consider the project a beneficial use. At best, creation of marsh might be considered a habitat trade, not necessarily a beneficial one. Based upon NMFS' mandates, we would not accept the loss of any aquatic habitat. NJ Maritime Resources has an interest in this project and may want additional discussions to determine if there is some viable project that could be done in the area. It is likely that additional interagency meetings will occur in the future. **(Karen Greene, 732/872-3023)**

### **WEST DEPTFORD TOWNSHIP**

Habitat staff has reviewed a public notice for the construction of a full service public marina on the Delaware River in West Deptford Township, NJ. Included in the marina are 288 boat slips, a public fishing pier, a boat launching ramp, a boat lift pier, and a fueling and sanitary pump-out facility. The marina is part of a larger project known as Riverwinds at West Deptford which would include a community center, recreational fields, ice skating rink, roller skating rink, indoor soccer facility, golf course, restaurants, hotel and conference center, commercial/office space, and additional acreage set aside as Green Acres Open Space. Approximately 0.63 acres of wetlands on the site would be impacted by the project for a public walkway and a water quality basin. Because the Riverwinds project has the potential to impact the Delaware River fisheries habitat and water quality, we have made a request to the ACOE to provide an environmental assessment for the Riverwinds project, including an alternatives analysis to us for review and comment, or that the permit be denied. **(Anita Riportella, 732/872-3116; [anita.riportella@noaa.gov](mailto:anita.riportella@noaa.gov))**

### **DUPONT CHAMBERS WORKS**

Habitat staff provided essential fish habitat conservation recommendations for the remedial actions at Solid Waste Management Unit 5 and 43 at the DuPont Chambers Works site in Deepwater, New Jersey. The proposed Interim Stabilization Measure will remove inorganic and organic contaminants, including aniline and 4-chloroaniline from the subtidal and intertidal areas of the Delaware River, eliminate potential future exposures, and enhance groundwater containment at the site boundary through sheet piling along the shore line. Habitat staff recommended that a mitigation plan be developed to compensate for intertidal and shallow water impacts. **(Anita Riportella, 732/872-3116; [anita.riportella@noaa.gov](mailto:anita.riportella@noaa.gov))**

### **DELAWARE BASIN FISHERIES**

On May 3 Stan Gorski chaired the quarterly meeting of the Delaware Basin Fisheries Technical Committee held at the Merrill Creek Reservoir Visitors Center, Harmony Township, Warren County, New Jersey. Because the hydroacoustic modeling employed by the State of New Jersey in 1999 indicated that the spawning population of American shad in the Delaware River dropped by an order of magnitude in just one year, the Technical Committee agreed that the modeling for the year 2000 should be accompanied by an independent field verification study. The FWS in Annapolis agreed to conduct the study and the Technical Committee drafted a MOU outlining

the study and assigning costs for the Policy Committee. Other issues discussed include the request by Public Service Electric and Gas Company to renew the operating license for the Salem Nuclear Generating Station for an additional five years. **(Stan Gorski, 732/872-3037)**

**MILFORD, CT OFFICE, 212 ROGERS AVENUE, MILFORD, CT 06460**

**Hudson River Park Update**

Staff completed coordination under our 404(q) Memorandum of Agreement with the New York District, Army Corps of Engineers (ACOE) for the subject project. We have every expectation that the District Engineer will make a final permit decision early in June. Some of the dissenting members of the public have indicated that if a permit is issued, they will consider undertaking a legal challenge in federal court. **(Diane Rusanowsky, 203/579-7004;**

**[Diane.Rusanowsky@noaa.gov](mailto:Diane.Rusanowsky@noaa.gov))**

**New York Prepares for OPSAIL2000**

Inspired by President John F. Kennedy, OPSAIL events have been scheduled periodically in major ports around the country. This July will be no exception when about 40 military vessels, including an aircraft carrier, make their way into New York Harbor for a celebration of maritime history. Historic tall ships from around the world will join these modern vessels in a parade of sail over the July 4 holiday. The public will be able to view the parade and board selected vessels that are tied up in the New York/New Jersey waterfront. In preparation for the 40,000 or more private vessels that are expected to attend, the Northeast Region's Habitat Conservation and Protected Resource Divisions continue to work with the US Coast Guard to ensure that the activities will be consistent with our mutual Endangered Species Act and Essential Fish Habitat mandates. One of the more pressing issues remaining involves providing adequate sanitary facilities for private vessels during their stay in the New York Metropolitan Area. Similar events leading up to this Celebration of Sail will be taking place in other ports before and after the New York event. President Clinton is scheduled to attend the major festivities. **(Diane Rusanowsky, 203/579-7004; [Diane.Rusanowsky@noaa.gov](mailto:Diane.Rusanowsky@noaa.gov))**

**City of Yonkers to Prepare Environmental Assessment for Waterfront Development Projects**

The City of Yonkers Industrial Development Agency is seeking Lead Agency status under the New York State Environmental Quality Review Act (SEQRA) to prepare an Environmental Impact Statement for waterfront development activities proposed in selected parcels along the Saw Mill and Hudson Rivers. The proposed action will include the acquisition, construction, and equipment of a housing complex with accompanying office, retail, and restaurant uses located on the Yonkers waterfront. At the present time, unspecified in-water work will be conducted to facilitate shoreline protection, control storm water runoff, and create new waterfront recreation opportunities. Habitat Conservation staff from the Milford field office will determine our appropriate level of involvement upon receipt of a more informative project description. The proposed activities have potential to affect Essential Fish Habitat and a reach of the Hudson where endangered or threatened marine species such as shortnose sturgeon (*Acipenser brevirostrum*) may occur. **(Diane Rusanowsky, 203/579-7004; [Diane.Rusanowsky@noaa.gov](mailto:Diane.Rusanowsky@noaa.gov))**

**OXFORD, MD OFFICE, 904 SOUTH MORRIS STREET, OXFORD, MD 21654**

**PATRICK KELLY**

This proposal was put out on Public Notice on May 16, 2000 for comment. The project involves the construction of 56 linear feet of timber bulkhead, extending approximately 13 feet channelward of the mean high water shoreline, covering approximately 14,000 square feet of tidal wetlands and high marsh in the Chincoteague Channel at Chincoteague, Virginia. Although the project is not a large proposal, it would set a bad precedent for the remaining non-bulkheaded shoreline extending several thousand feet south of the project area. We are recommending denial of the project as proposed, and that any bulkhead permitted for this site should be located landward of all wetland vegetation. **(Rod Schwarm, 410-226-5771)**

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

We met with the Virginia Department of Transportation (VDOT) along with the Virginia Institute of Marine Science (VIMS) regarding the Essential Fish Habitat(EFH) Assessments for various VDOT projects. As a requirement of a recent ACOE permit, VDOT was required to prepare an EFH Assessment for the Route 164 bridge access ramp, which they contracted VIMS to complete. The meeting addressed the site sampling work and the assessment and how the procedures will be applied to future VDOT projects, such the Hampton Roads Third Crossing and the replacement of the bridges at West Point, Virginia. VIMS will be conducting fish sampling at the actual project sites, as well as drawing on their many years of sampling in Virginia waters. **(Rod Schwarm, 410-266-5771)**